



Court File No.: S-S-135796
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ATOYA MONTAGUE

PLAINTIFF

AND:

**TIM SHIELDS, THE ATTORNEY GENERAL OF CANADA and
THE MINISTER OF JUSTICE FOR THE PROVINCE OF BRITISH COLUMBIA**

DEFENDANTS

RESPONSE TO CIVIL CLAIM

Filed by: Tim Shields (the "Defendant")

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendant's Response to Facts

1. Except where expressly admitted herein, the Defendant denies each and every allegation in Part I of the Notice of Civil Claim and puts the Plaintiff to the strict proof thereof.
2. The facts alleged in paragraphs 11, 12, 15 of the Notice of Civil Claim are admitted.
3. The facts alleged in paragraphs 2-4, 7-10, 13-14, 16-20, 25-38, 102-109 of the Notice of Civil Claim are denied.
4. The facts alleged in paragraphs 1, 5, 6, 21-24, 39-101, 110-130 of the Notice of Civil Claim are outside the knowledge of the Defendant.
5. To the extent there are facts alleged in Part 3 of the Notice of Civil Claim, such facts are denied.

Division 2 – Defendant’s Version of Facts

A. BACKGROUND

6. The Defendant Tim Shields (“Shields”) is an individual residing in the Province of British Columbia, with an address for service at 1000, 1199 West Hastings Street, Vancouver, British Columbia.
7. Shields joined the Royal Canadian Mounted Police in 1996. He is a commissioned officer and holds the rank of Inspector.

History of Shields’ Employment with the RCMP

8. From 1997 to 2006, Shields was stationed in Surrey, British Columbia. His positions and policing duties during that time were as follows:
 - (a) From 1997 to 2004, he provided general policing duties as a Constable for the Surrey RCMP detachment, including almost two years as a plainclothes officer investigating financial crime;
 - (b) In October 2001, Shields was transferred to the position of media relations officer for the Surrey detachment. In this role, he was responsible for providing accurate and timely information to the public about public safety incidents in the Surrey community; and
 - (c) In 2004, Shields was promoted to the rank of Corporal and was transferred to the position of bait car supervisor for the Integrated Municipal Provincial Auto Crime Team (IMPACT). He held that position until 2006.
9. In 2006, Shields was promoted to the rank of Sergeant and transferred to the position of Drug and Property Crimes Supervisor at the RCMP detachment in Kelowna, British Columbia. In this position, he supervised 12 police officers and was responsible for overseeing the detachment’s drug section and property crimes sections. He also supervised the detachment’s handling of confidential human sources.
10. In 2007, Shields was transferred to the position of Detachment Commander of the RCMP detachment in Lake Country, British Columbia. In this role, he supervised 13 police officers and municipal employees and was essentially the chief of police for this community of 11,000 people.

11. In July 2008, Shields was requested by RCMP senior management to transfer to Vancouver as the acting Staff Sergeant in charge of the "E" Division Strategic Communications Section. In that role, Shields managed 24 staff members (including the Plaintiff, Atoya Montague) and was responsible for the "E" Division (i.e. British Columbia) internal and external communications. He was also the RCMP's chief media relations officer and he spoke on behalf of over 9,000 RCMP employees in British Columbia.
12. In December 2009, Shields received his commission to the rank of Inspector, and was promoted to the position of Officer in Charge of the "E" Division Strategic Communications Section.
13. In May 2011, Shields was transferred to the position of Assistant Operations Officer of the RCMP detachment in Burnaby. In that position, he was responsible for overseeing 150 front line police officers and 40 civilian staff, and supervised all uniformed first responders in Canada's second largest RCMP detachment.
14. From February 2013 to the present, Shields has held the position of Regional Duty Officer in the Lower Mainland District. In this position, Shields is responsible for overseeing hundreds of RCMP first responders in 18 communities, from Boston Bar and Hope west through to Whistler and Pemberton.

Awards and Community Recognition

15. Over his nearly 20 year history as a police officer, Shields has received numerous awards and medals recognizing his dedication and service to the communities of British Columbia.
16. In 2004, Shields received two awards recognizing his dedication and service to the community; namely, the Queen's Royal Jubilee Medal for outstanding service to Canada, and the Surrey Police Officer of the Year award as nominated by the community.
17. In 2007, Shields was the recipient of three awards; namely, the Lieutenant Governor's Award for meritorious service and the RCMP Commanding Officer Award for meritorious service for his role in creating a drug and auto theft prevention documentary film that was distributed by the Ministry of Education to every high school in BC, and the Canadian Public Relations Society PR Leadership Award for his auto theft prevention initiatives.
18. In 2009, Shields was awarded the St. John's Ambulance Lifesaving Award for putting his own life at risk while trying to save the life of another.
19. In 2010, Shields was awarded the BC Institute of Technology Distinguished Alumni award.

20. In 2012, Shields was the recipient of the Queen's Diamond Jubilee Medal, honouring his significant contributions and service to Canada.
21. In 2013, Shields was awarded a Master's degree in criminal justice and was named as a Dean's List recipient.
22. Until the Plaintiff commenced these proceedings, Shields had an exemplary service record with the RCMP, and in particular, had never been subject to:
 - (a) Disciplinary action or a Code of Conduct investigation; or
 - (b) A harassment complaint by any of the significant number of police officers and civilian employees that he has supervised over the course of his career.
23. Between 2001 and 2011, Shields became one of the most well-known media relations officers in British Columbia. He was the public face of the RCMP in British Columbia during numerous high profile media events, including the Dawson Creek pipeline bombings, the Braidwood Inquiry, 2010 Olympic Games and countless related crime and public safety issues. Over the course of his career with the RCMP, he has conducted in excess of 7,000 media interviews at the local, regional, national and international level.
24. The allegations made by the Plaintiff in her Notice of Civil Claim, all of which are expressly denied by Shields, have attracted significant media attention at the local and national level and seriously damaged Shields' reputation and career.

B. RESPONSE TO THE PLAINTIFF'S ALLEGATIONS

Travelling to Kamloops in September 2003

25. In September 2003:
 - (a) Shields was a junior constable stationed at the Surrey RCMP detachment; and
 - (b) The Plaintiff was a senior-level communications officer working in the Strategic Communications Section at "E" Division Headquarters (which, at that time, was located in Vancouver).
26. The Plaintiff, Shields and a police officer stationed at the Langley RCMP detachment, Cpl. Dale Carr ("Carr"), volunteered to travel to the City of Kamloops to deliver donated household goods to the victims of wildfires. Shields and Carr were each responsible for driving two five-ton rental trucks loaded with the donated goods.

27. The Plaintiff requested to ride along with Shields and Carr to drop off the donated goods in Kamloops.
28. At the outset of the trip, Shields, Carr and the Plaintiff agreed that the Plaintiff would travel with Shields for the first half of the drive to Kamloops, and with Carr for the second half of the trip. The trucks driven by Carr and Shields travelled together along the entire 4-hour trip, one after the other.
29. During the approximately 2 hours that she drove with Shields, the Plaintiff was friendly and talkative. They carried on a conversation about their backgrounds, careers and personal lives. At one point during the trip, both the Plaintiff and Shields shared intimate personal information. This conversation was mutual and the Plaintiff was a willing participant.
30. Contrary to paragraphs 24 to 26 of the Notice of Civil Claim, the Plaintiff did not travel to Barrière, British Columbia with Shields, and did not travel in a car. The Plaintiff spoke frequently to Carr on her mobile telephone during the 2 hours that she travelled in Shields' vehicle, and (as set out above) Carr travelled closely behind or in front of Shields for the entire trip. If the Plaintiff was uncomfortable travelling with Shields (which is denied), the Plaintiff could have, at any time, requested to change vehicles.
31. When they arrived in Kamloops, the Plaintiff spent the afternoon and evening with Shields and Carr as they unloaded the supplies and spoke with members of the community. There was no noticeable change to the Plaintiff's demeanor from the beginning of the day. She continued to be friendly, upbeat and talkative toward both Shields and Carr.
32. Shields specifically denies that:
 - (a) He was in a position of authority over the Plaintiff in 2003;
 - (b) The Plaintiff was a "captive passenger";
 - (c) He made sexual advances or exposed his genitals to the Plaintiff; or
 - (d) He took advantage of the Plaintiffas alleged in the Notice of Civil Claim or at all.

Supervision of the Plaintiff from 2008 to 2011

33. Between 2003 and 2008, the Plaintiff and Shields maintained a friendly working relationship and saw each other frequently at conferences, work and social events.

34. In 2008, Shields was transferred to the “E” Division Strategic Communications Section and, for three years from 2008 to 2011, the Plaintiff worked with and reported to Shields.
35. Shields had a friendly and professional relationship with the Plaintiff. He was supportive of her career and thought that she effectively performed her role as a senior communications strategist.
36. The Plaintiff consistently exhibited a high energy and assertive personality at the workplace and frequently dominated meetings and conversations.
37. The Plaintiff supervised up to ten other civilian member communications strategists. She did not supervise regular members (i.e. police officers). At all relevant times, the Plaintiff was aware, or ought to have been aware, that she had more limited promotional opportunities, not because of her gender, but because she was a civilian member.
38. When Shields left the Strategic Communications Section in May 2011, the Plaintiff asked a subordinate to plan a farewell event for Shields, which the Plaintiff attended. In an album prepared by members in the unit, the Plaintiff wrote:

My word for Tim: When he first arrived – it was definitely, “relief” – thank God there is someone to share the load with – and what I was fortunate to discover is that Tim would become much more than that. As a boss, Tim you were a constant source of support, a great sounding board and a positive recipient of new ideas. But what mattered the most was the sense of partnership we had. Since the day you arrived at Strat Comm I have not felt alone and every difficult and challenging situation we’ve been in as a unit was easier to get through because of you. Thanks for teaching me the true benefits of co-dependency and for always having my back. I will miss you!

39. Shields specifically denies that he:
 - (a) Subjected the Plaintiff to sex discrimination or harassment;
 - (b) Prevented the Plaintiff from pursuing promotional opportunities in the RCMP; or
 - (c) Encouraged or directed the Plaintiff to act unethically, or in a manner that violated RCMP policies or was in a conflict of interest with the RCMP

as alleged in the Notice of Civil Claim or at all.

The Plaintiff's Conduct at the Workplace

40. While at the workplace, the Plaintiff openly engaged in conversations with her colleagues about personal and sexual aspects of her life. She participated in sexual banter and frequently made sexual remarks and jokes, including comments and jokes about her own breasts. She did so in the presence of her colleagues and supervisors (including but not limited to Shields).
41. One example of this behavior (which was captured in photographs) occurred in 2010 when the Plaintiff had her photograph taken for an RCMP internal member directory. In front of her co-workers, the Plaintiff made physical gestures intended to draw attention to her chest while the photographs were taken.
42. Shields from time to time engaged in jokes or banter with the Plaintiff. However, Shields specifically denies that he:
 - (a) Made sexual advances toward the Plaintiff;
 - (b) Exposed his genitals;
 - (c) Engaged in misconduct;
 - (d) Failed to comply with the *Royal Canadian Mounted Police Act*, Commissioner's Standing Orders or RCMP Administration Manual;
 - (e) Commented on the Plaintiff's breasts;
 - (f) Sexually harassed or humiliated the Plaintiff;as alleged in the Notice of Civil Claim or at all.

Division 3 – Additional Facts

43. The incidents alleged against Shields in the Notice of Civil Claim occurred many years before these proceedings were commenced (and, in the case of the trip to Kamloops, nearly 10 years after the alleged incident).
44. At no time prior to filing the Notice of Civil Claim did the Plaintiff bring allegations against Shields to the attention of a co-worker, supervisor or other person in authority at the RCMP.
45. The Plaintiff had an assertive and outspoken personality at the workplace. If the alleged incidents had occurred as described in the Notice of Civil Claim (which is expressly denied), it would have been highly unusual for the Plaintiff not to bring them to someone's attention.

46. On August 2 and 7, 2014 (after the commencement of these proceedings), the RCMP ordered a Code of Conduct investigation against Shields based on the allegations in the Notice of Civil Claim.
47. The RCMP's Professional Standards Section conducted an internal Code of Conduct investigation on Shields in August and September 2013.
48. As part of this investigation, and on more than one occasion, the RCMP contacted the Plaintiff and asked her to provide a statement to clarify her allegations made in the Notice of Civil Claim. One such request came from a female RCMP senior executive officer, who assured the Plaintiff that she would not be required to speak with any male police officers as part of this request for more information.
49. The Plaintiff refused to provide a statement, provide any clarifying information, or speak with any member of the RCMP about the allegations she had made against Shields.
50. On September 30, 2013, the RCMP deemed the allegations to be unsubstantiated. As such, the Code of Conduct investigation against Shields was concluded.

Part 2: RESPONSE TO RELIEF SOUGHT

51. The Defendant opposes the granting of the relief sought in all of the paragraphs of the Notice of Civil Claim.

Part 3: LEGAL BASIS

Tort liability and damages

52. Shields denies that any of the alleged unlawful acts or omissions or wrongdoing occurred, as alleged in the Notice of Civil Claim or at all.
53. Shields specifically denies that he:
 - (a) Engaged in harmful or offensive conduct against the Plaintiff or threatened to do so;
 - (b) Committed sexual assault or battery against the Plaintiff;
 - (c) Sexually abused or harassed the Plaintiff;
 - (d) Interacted with the Plaintiff in a manner that was calculated to produce harm;
 - (e) Acted dishonestly, in a grossly negligent manner or engaged in malicious or wilful misconduct;

- (f) Exploited or abused a position of authority;
 - (g) Acted in a malicious, wilful, humiliating or undignified manner;
 - (h) Breached a duty of care owed to the Plaintiff; or
 - (i) Negligently or intentionally inflicted mental suffering on the Plaintiff;
as alleged in the Notice of Civil Claim or at all.
54. The torts of sexual assault and battery require imminent or actual harmful or offensive conduct. Without more, speaking words of an intimate or sexual nature does not constitute sexual assault and battery.
55. In the alternative, if any of the alleged unlawful acts or omissions or wrongdoing alleged against Shields occurred (which is expressly denied):
- (a) The Plaintiff consented to such acts, omissions or conduct either expressly or by implication;
 - (b) Any such acts, omissions or conduct did not cause the Plaintiff to suffer injury, loss or damage, as alleged in the Notice of Civil Claim or at all;
 - (c) In the alternative, if any such acts, omissions or conduct caused the Plaintiff to suffer any injury, loss or damage (which is expressly denied):
 - (i) Such injury, loss or damage was caused, or significantly contributed to, by the negligence of the Plaintiff. Shields pleads and relies on the *Negligence Act*, R.S.B.C. 1996, c. 33;
 - (ii) Such injury, loss or damage was caused or attributable to previous, pre-existing and/or subsequent events, injuries, conditions involving or affecting the Plaintiff; and/or
 - (iii) The Plaintiff failed to mitigate any injury, loss or damage.
56. In the further alternative, the alleged unlawful acts or omissions or wrongdoing alleged in the Notice of Civil Claim do not warrant aggravated, punitive or exemplary damages, as alleged or at all.
- Limitation period**
57. All of the alleged unlawful acts or omissions or wrongdoing alleged by the Plaintiff occurred more than two years before the Notice of Civil Claim was filed.

The proceedings against Shields are therefore statute barred. Shields pleads and relies on the *Limitation Act*, R.S.B.C. 1996, c. 266.

58. Further or in the alternative, the Plaintiff's allegations against Shields should not be enforced or allowed as a result of the unduly long delay in commencing these proceedings. Shields pleads and relies on the equitable doctrine of laches.

Statutory bars to the Plaintiff's claims

59. At all material times:

- (a) Shields was a member of the RCMP and a servant of the federal Crown, pursuant to the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10 and the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50;
 - (b) There was an agreement between the Province of British Columbia and the Government of Canada pursuant to the *Police Act*, R.S.B.C. 1996, c. 367 and the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, and therefore, Shields was deemed to be a provincial police constable pursuant to the *Police Act*;
 - (c) Shields acted in the performance or intended performance, course and scope of his duties as an RCMP officer, federal servant and/or provincial police constable;
 - (d) Shields did not act dishonestly or in a grossly negligent or malicious manner, and/or did not commit wilful misconduct; and
 - (e) If the Plaintiff has suffered any injury, loss or damage (which is expressly denied), she has received or is entitled in the future to receive payments or other compensation (including, but not limited to a disability pension) under the *Pension Act*, R.S.C. 1985, c. P-6.
60. As a result, the Plaintiff's claims against Shields are statute barred, or in the alternative, should be stayed pending the Plaintiff's application under the *Pension Act*. Shields pleads and relies on the *Police Act*, the *Crown Liability and Proceedings Act* and the *Pension Act*.

Special Costs

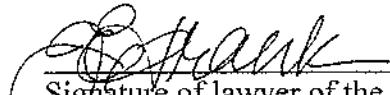
61. Given the serious nature of the allegations in the Notice of Civil Claim, and the significant damage they have caused to Shields' reputation and career, Shields is entitled to special costs of these proceedings.

Defendant's address for service: Gall Legge Grant Munroe LLP
Attention: Jillian Frank
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Vancouver, BC V6E 3T5
Ph.: 604-891-1160

Fax number address for service: NIL

E-mail address for service: jfrank@glgmlaw.com

Dated: July 18, 2014



Signature of lawyer of the Defendant
Jillian Frank

Rule 7-1(1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.